IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CIVIL WRIT PETITION NO. 15313 OF 2004

DATE OF DECISION: January 15, 2007

Parties Name

Sanjay Kumar

..PETITIONER

VERSUS

State of Haryana and another

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASBIR SINGH
HON'BLE MR. JUSTICE BALDEV SINGH

PRESENT: Mr. Anil Shukla,
Advocate, for the petitioner.

Mr. Harish Rathee, Sr. D.A.G., Haryana;

Mr. A.P.Bhandari, Advocate;

JASBIR SINGH, J. (oral)

Order.

Affidavit on behalf of the petitioner has been filed in Court. The same is taken on record. In the affidavit, petitioner- workman has specifically stated that he is ready to join service only in M/S Hindustan Syringes and Medical Devices Ltd. Counsel for the respondent No. 2 states that the above said concern is no more in existence. It appears that the matter cannot be settled between the parties.

Vide order dated May 31, 2003, petitioner's services were transferred from the concern named as M/s Hindustan Syringes and Medical Devices Ltd to M/s Niraj Industries Pvt. Ltd. Contents of the letter read thus:

“You are transferred to M/s Niraj Industries Pvt. Ltd., Plot No.

> 177, Sector 25, Ballabgarh w.e.f. 2nd June, 2003. Your transfer is along with previous service and conditions, which is not changed in any case.
>
> You should report to the Managing Director of M/s Niraj Industries (P)Ltd. and you will work as per his orders."

A reading of the contents of the letter, referred to above, indicates that services of the petitioner were transferred to a nearby place with continuity of service. His service conditions were also not changed. Instead of joining with the sister concern, the petitioner abandoned the service and raised a demand by issuing a notice only on February 3, 2004. Vide letter dated June 18, 2004,Annexure P-4, respondent No. 1 intimated him that as it is only a case of transfer, his matter is not being sent to the Labour Court for adjudication. Consequently, this writ petition has been filed by the petitioner to lay challenge to the order of respondent No. 1, referred to above. Following order was passed by this Court on September 15, 2006:

> "Learned counsel for respondent No. 2 states that the Management has no objection if the petitioner still makes up his mind for joining the job. Learned counsel for the petitioner seeks time to obtain the appropriate instructions."

The petitioner has placed on record his affidavit today in Court, wherein he has stated that he can join service only in M/s Hindustan Syringes and Medical Devices Ltd. To a specific question, counsel for the petitioner stats that he is not ready to join service with M/s Niraj Industries Pvt. Ltd. It appears that the petitioner is not interested in working. He is

only trying to get undue benefit of the situation, in which the Management has been placed. Shri Bhandari has specifically stated that M/s Hindustan Syringes and Medical Devices Ltd. is no more in existence. To say so, he has referred to document (Annexure R-8), vide which licence qua that concern was returned. Vide letter dated June 18, 2004 (Annexure P-4), the petitioner was rightly intimated that as it was not a case of termination, his matter is not being referred for adjudication. Premises of the sister concern is situated only at a small distance. As such argument of counsel for the petitioner that under the guise of transfer order, his services have been terminated, is liable to be rejected. Vide transfer letter, referred to above, service conditions of the petitioner were kept intact. No case is made out for interference. However, if the petitioner intends to join service, without claiming back wages, in sister concern and moves an application in that regard within 15 days from today, the respondents are directed to give him appointment with continuity of service but without back wages. Dismissed

(Jasbir Singh)
Judge

(Baldev Singh)
Judge

January 15, 2007.
DKC